IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 26TH OCTOBER 2007 / 4TH KARTHIKA 1929

Crl.Rev.Pet.No. 3836 of 2007()

CC.375/2006 of ADDL.CHIEF JUDICIAL MAGISTRATE (E & O), ERNAKULAM

.....

REVN. PETITIONER: COMPLAINANT

KHADER ISMAIL, S/O.KHADER,
HOUSE NO.4/1564, PULLUPALAM ROAD,
COCHIN-1.

BY ADV. SRI.MANSOOR.B.H.

RESPONDENTS: ACCUSED AND STATE

---

1. C.K.PETER, VEENA AGENCIES,
DOOR NO.XXIIX/3781, PULLICKAL BUILDING,
ERNAKULAM, RESIDING AT CHITTAKKODATH HOUSE,
THANIKKAL LANE, AAMAKKALA, ERNAKULAM, COCHIN.

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 26.10.2007 , THE COURT ON 26/10/2007 PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 3836 OF 2007

Dated this the 26th day of October, 2007

O R D E R

The revision petitioner, who is the complainant in C.C.No.375/06 on the file of the Additional CJM(EO), Ernakulam for an offence punishable under section 138 of the Negotiable Instruments Act, 1881, involving a cheque for a sum of Rs.3,50,000/-, challenges the order dated 14.8.07 passed by the court below dismissing the complaint under section 204(4) Cr.P.C. for not depositing the process fee.

2. Since the dismissal of the complaint was in the absence of the accused, notice to the 1st respondent accused in this revision is dispensed with.

3. In the fitness of the case, the learned Magistrate should have given the petitioner one more opportunity to deposit the process fee instead of dismissing the complaint. Hence, the impugned order is set aside and C.C.No.375/06 is restored to file. The revision petitioner shall appear before the court below without any further notice on 28.11.07 by which time he shall have paid the requisite process fee.

This revision is disposed of as above.

(V. RAMKUMAR, JUDGE)

aks